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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,772	12/08/2003	Steven C. Jepson	MDD-5128N1	2213
29200 K&L Gates LLP P.O. Box 1135 Chicago, IL 60690-1135	7590 03/03/2010			
EXAMINER				
GRAY, PHILLIP A				
ART UNIT		PAPER NUMBER		
3767				
NOTIFICATION DATE		DELIVERY MODE		
03/03/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

### Office Action Summary

**Application No.**

10/730,772

**Applicant(s)**

JEPSON ET AL.

**Examiner**

Phillip Gray

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-90 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☐ Claim(s) 2-6, 10-14, 16-19, 22-26, 33, 36, 42-45, 48-52, 57, 60, 63, 66, 69, 72, 75 and 78 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/9/2009.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Continuation of Disposition of Claims: Claims rejected are 1,7-9,15,20,21,27-32,34,35,37-41,46,47,53-56,58,59,61,62,64,65,67,68,70,71,73,74,76,77 and 79-90.

## **DETAILED ACTION**

This office action is in response to communication of 3/31/2009. Currently claims 1-90 are pending and rejected below. A new ground of rejection is being made due to the Vedder Patent.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-90 have been considered but are moot in view of the new ground(s) of rejection. Applicant's previously argued that the "luer tip is inserted downward into said opening in said housing and through said valve portion, said valve portion and said second portion of valve portion are forced radially open by the luer tip and form a radial seal about said luer tip and allow fluid to be injected from said tip into said second passageway" was not shown in the prior art of record. As described in the rejection below and in the Vedder reference, it is examiners position that this limitation is disclosed. A new ground of rejection is being made.

Applicant's arguments, see brief, filed 3/31/2009, with respect to the rejections under Mayer have been fully considered and are persuasive. The previous 102/103 rejections of last office action have been withdrawn.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7-9, 15, 20-21, 27-32, 34-35, 37-41, 46-47, 53-56, 58-59, 61-62, 64-65, 67-68, 70-71, 73-74, 76-77, 79-90 are rejected under 35 U.S.C. 102(b) as being anticipated by Vedder (U.S. 5,441,487). Vedder discloses a plastic needleless valve housing for standard male luer locks. Vedder discloses a connector device (as in figures 1-4 for example) comprising a housing (16/20/18/17 unit), forming an upper end opening (near 78 end) and first passageway (space area near 78 opening) sized to receive a male luer tip (near 52 as in figure 4), housing upper end portion (housing of 20 near 76), first upper edge portion of housing (near 74 with constant outer diameter), second lower portion (housing 20/18 with larger outer constant second diameter then first outer diameter), and third intermediate portion of housing (housing area between 72 and 20 which transitions from first to second housing portions in its diameter), a resealable valve (see 56) including a first valve portion (56) note upper portion radially extending across said opening (see figure 3), with upper surface easily wipeable (see figure 2), second valve portion (58/59), integral with the first portion and extending downward, a third valve portion (40/44) extending from one of said second valve portion and a lower surface of said first valve portion, lower end portion (44) of third valve portion attached to the housing and forms a sealed second passageway (space near 41), a space (area between 44 and 20) between the third valve portion and the housing (as in figure 1 and 4); an opening (near 50) formed in the valve that when the luer tip is inserted (see

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figure 4) the first and second valve portions are forced radially open by the luer tip and form a radial seal about said luer tip and allow fluid to be injected from said tip (near 52) into said second passageway (near and around A as in figure 4), and such that fluid injected into the second passageway flows through the housing (16) without flowing through said space (area between 44 and 20). Note second valve portion rectangular cross section (59 as in figure 1 and 3) and stretched configuration (in figure 4).

Concerning the removal of the luer tip, at least some fluid remaining in the second passageway is forced into the housing (see figure 4). Concerning claims 29-32 note portion 40/44 extending from 58 and downward towards housing at 45/42. Further the Vedder device conforms to ISO standards (see background of invention).

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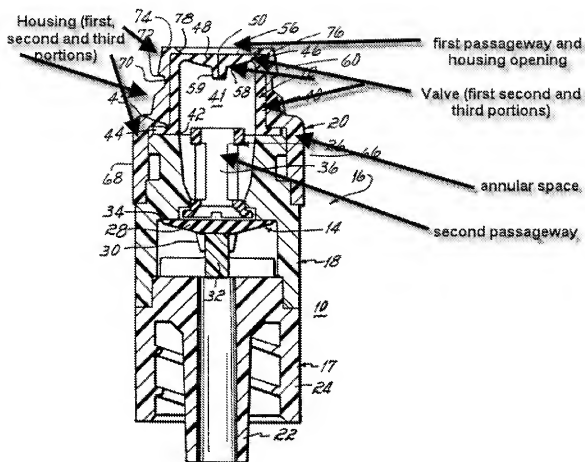
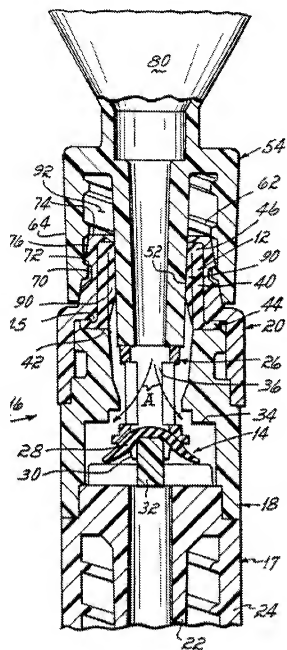


FIG. 1





Claims 2-6, 10-14, 16-19, 22-26, 33, 36, 42-45, 48-52, 57, 60, 63, 66, 69, 72, 75, 78 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gray whose telephone number is (571)272-7180. The examiner can normally be reached on Monday through Friday, 8:30 a.m. to 4:30 p.m. EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Phillip Gray/  
Examiner, Art Unit 3767

/Kevin C. Simons/  
Supervisory Patent Examiner, Art Unit 3767